

# **EXHIBIT 1**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 87613813 for the mark EMERSON CREEK EVENTS, Opposition No, 91241725, and Application Serial No. 87400157 for the mark EMERSON CREEK POTTERY MADE IN THE USA, Opposition No, 91244057, Consolidated.

COUNTRYVIEW POTTERY CO.	)	
d/b/a EMERSON CREEK POTTERY and	)	
EMERSON CREEK TEAROOM, and EMERSON	)	
CREEK EVENTS, INC.	)	
	)	
Opposers,	)	
	)	
v.	)	Opposition No.91241725
	)	(Parent Case)
EMERSON CREEK POTTERY, INC.	)	
	)	
Applicant	)	

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EMERSON CREEK POTTERY, INC.	)	
	)	
Opposer	)	
	)	
v.	)	Opposition No. 91244057
	)	
COUNTRYVIEW POTTERY CO., and	)	
EMERSON CREEK EVENTS, INC.	)	
	)	
Applicants	)	

**RESPONSE TO EMERSON CREEK POTTERY’S FIRST REQUEST TO  
FOR PRODUCTION OF DOCUMENTS**

NOW COME COUNTRYVIEW POTTERY CO. and EMERSON CREEK EVENTS, INC., by and through their attorneys, Law Offices of McLaughlin & Associates, P.C., and for their response to Emerson Creek Pottery’s First Request for Production of Documents, state as follows:

### **GENERAL OBJECTIONS**

Countryview Pottery Co. (“Countryview”) and Emerson Creek Events, Inc. (“EC Events”) object to Emerson Creek Pottery, Inc.’s (“ECP”) definition of “Applicants,” “Countryview Parties,” or “You” in its Requests for Production of Documents to include Ron Wehrli, and Christina Demiduk and David Demiduk, individually, as they are not Applicants for any trademark at issue.

Countryview and EC Events further to any request that seeks disclosure of information or documents related to sales of pottery or any other goods or any non-banquet or event related services, on the grounds that this opposition is solely associated with the registration of the instant application serial number 87613813 for the mark EMERSON CREEK EVENTS, and therefore such request is overbroad, irrelevant, and not reasonably calculated to lead to discoverable evidence.

Countryview and EC Events object to any request that is not limited in time as such request is overbroad and unduly burdensome.

(The foregoing objections will be collectively referred to herein as “the General Objections” and shall be incorporated by reference in each and every response wherever it states “Subject to the General Objections” before any response.)

### **TERMS**

As used herein, Emerson Creek Pottery, Inc. shall be referred to as “ECP” and Countryview Pottery Co. and Emerson Creek Events, Inc. collectively as “Countryview Parties”.

### **SPECIFIC RESPONSES AND OBJECTIONS**

#### **DOCUMENTS PRODUCED**

ECE 001-018	Ledger of expenditures for printing expenses 05/2011-04/2019
ECE 019-030	Solstice Communications website expenses
ECE 031-035	The Knot advertising expenses
ECE 036-053	Lindsay Winkler website and branding expenses
ECE 054-055*, 060-061, 119-121 (*056 included in error)	News articles (Chicago Tribune/Aurora Beacon)
ECE 062-118, 122-193	Catalogues/Advertising (Neighborhood Tourist), The Knot, The Celebration Society, Naperville

	Magazine, Style Me Pretty, Chicago Illinois Wedding)
ECE 194-251	Printouts of various pages online with Emerson Creek wedding and events (representative, not exhaustive)
ECE XXX-XXX	Profit and Loss Statements (Confidential and Attorney's Eyes Only) (via supplemental response)
ECE XXX-XXX	Income Tax Returns without Schedules (redacted to only show gross revenues) (Confidential and Attorney's Eyes Only) (via supplemental response)

1. All documents showing, concerning, evidencing, relating or referring to Countryview Parties' ownership (including amongst themselves), selection, adoption, application to register (including as domain names and for social media), protection or use of any mark or text containing the term EMERSON CREEK.

**RESPONSE:** Subject to the General Objections, see Countryview Parties' trademark applications, which are a matter of public record and already a part of the record in this case. Countryview Parties also own the domains: [www.emersoncreek.com](http://www.emersoncreek.com) and [www.emersoncreekpotteryandtearoom.com](http://www.emersoncreekpotteryandtearoom.com).

2. All documents showing, concerning, evidencing, relating or referring to any instances of actual confusion among customers, vendors or any third parties between Opposer and Applicant from the use or presentation by either of any mark or text containing the terms EMERSON CREEK.

**RESPONSE:** Subject to the General Objections, no consumer has expressed any confusion related to the use of the mark "EMERSON CREEK" for events and banquet services as used by Countryview Parties. To Countryview Parties' knowledge, no one else, including ECP, is using the term "EMERSON CREEK" in connection with event and banquet services.

3. All documents showing, concerning, evidencing, relating or referring to Countryview Parties' unit and dollar sales for pottery, restaurant and/or event services associated with any mark or text containing the terms EMERSON CREEK.

**RESPONSE:** Subject to the General Objections, Countryview Parties are compiling gross figures for banquet and event services in connection with the term "EMERSON CREEK" and will produce same. As such information requires additional time to obtain from storage and third party sources (such as accountants), such information will be provided via supplemental response.

4. All documents showing, concerning, evidencing, relating or referring to Countryview Parties' marketing and advertising associated with any mark or text containing the terms EMERSON CREEK, including but not limited to any online and/or internet use, promotion, marketing and/or advertising, website(s) and social media site(s).

**RESPONSE:** Subject to the General Objections, see Countryview Parties' webpages, including:

<https://www.ecreekpotteryandtearoom.com/our-events/>  
<https://www.ecreekpotteryandtearoom.com/barn-weddings/>  
<https://www.ecreekpotteryandtearoom.com/emersons-vintage-market/>  
<https://www.ecreekpotteryandtearoom.com/yoga-mimosas/>  
<https://www.ecreekpotteryandtearoom.com/yoga-wine/>, <https://www.facebook.com/EmersonCreekPotteryandTearoom/>  
<https://twitter.com/Ecreekevents>  
<https://www.instagram.com/emersoncreekevents/>  
<https://www.pinterest.com/emersoncreek/>  
<https://www.linkedin.com/company/emerson-creek-events-inc>.

The above-referenced sites are publicly available for viewing and printing by ECP, and therefore, Countryview Parties object to any demand to print said websites. Representative but not exhaustive printouts of some of these sites are attached as ECE 194-251. Further answering, see also ECE 001-193.

5. All documents showing, concerning, evidencing, relating or referring to Countryview Parties' customers for pottery goods and restaurant and events services.

**RESPONSE:** Subject to the General Objections, the ordinary customers of Countryview Parties' event and banquet services include but are not limited to individuals and businesses interested in planning weddings, attending yoga classes, attending vintage market events, and holding other social events in a rustic location. Countryview Parties further object to a request for production of any customer lists as production of same is virtually impossible given the nature of Countryview Parties' business. Customers who visit Countryview Parties' location do not always provide their names, as they may pay by credit card or cash, may visit on occasion seasonally, or may visit the restaurant, banquet hall, and grounds, which do not require public registration. Accordingly, a formalized and complete customer list does not exist. In response to this Request, Countryview Parties will produce redacted profit and loss statements and income tax returns showing gross revenues for event and banquet services. However, as such information requires additional time to obtain from storage and third party sources (such as accountants), such information will be provided via supplemental response. Consumers have travelled from various parts of the United States to visit Countryview Parties' facility, which Dave and Christine Demiduk will testify to during their depositions.

6. All documents showing, concerning, evidencing, relating or referring to the goods and services, in detail, offered by Countryview Parties under any mark or text containing the terms EMERSON CREEK.

**RESPONSE: Subject to the General Objections, see ECE 001-251.**

7. All documents showing, concerning, evidencing, relating or referring to any investigation or analysis by Countryview Parties of the availability for use or registration of any mark or text containing the terms EMERSON CREEK.

**RESPONSE: Subject to the General Objections, none other than conducted by Countryview Parties' counsel in connection with the trademark application at issue in this case, which searches are protected from disclosure under the work product doctrine. No other person or entity was found to be using the name "EMERSON CREEK" in connection with event or banquet services, including ECP.**

8. All documents showing, concerning, evidencing, relating or referring to any U.S. federal, state or foreign trademark, service mark or fictitious name application or filing for any text or mark containing the terms EMERSON CREEK alone or in addition to other wording or elements.

**RESPONSE: Subject to the General Objections, Countryview has the assumed name "Emerson Creek Pottery" and "Emerson Creek Tearoom" in the State of Illinois, through the Illinois Secretary of State, which is available for online public search and printing by ECP. Countryview Parties' trademark applications are a matter of public record and may be searched and found online by ECP by searching "Emerson Creek" via the USPTO's TESS system.**

9. All documents showing, concerning, evidencing, relating or referring to any sales by you of pottery and related goods and service not obtained from Opposer nor any of same originating from Opposer, including but not limited to all receipts, invoices and/or statements issued to or by you.

**RESPONSE: Subject to the General Objections, Countryview Parties object to Request #9 as it requests sales information for third party pottery and goods, which is irrelevant and not reasonably calculated to lead to discoverable evidence where the services involved are event and banquet services and not pottery.**

10. All documents of which Countryview Parties are aware or have knowledge, showing, concerning, evidencing, relating or referring to all third-party uses of the terms EMERSON CREEK either alone or in combination with other terms in the United States.

**RESPONSE: Subject to the General Objections, none.**

11. All documents showing, concerning, evidencing, relating or referring to any communications, exchanges, negotiations or agreements between the parties regarding any

mark or text containing the terms EMERSON CREEK, including but not limited to the sale or offering of pottery goods, restaurant or event services and/or other good(s) or services(s).

**RESPONSE: Subject to the General Objections, there are no documents related to Countryview Parties' use of EMERSON CREEK in connection with event or banquet services. The parties have had communications over the years in which it was clear Countryview Parties were using the name "EMERSON CREEK" in connection with their business without restriction and with no objection (written or oral) by Jim Leavitt or ECP, which communications will be the subject of testimony during depositions but which have not been reduced to writing.**

12. Copies of any and all permit(s) and/or permission(s) issued by any governmental agency of the U.S. and/or any state or municipality within the U.S. involving Countryview Parties' pottery goods and/or restaurant and/or event services and all documents relating or referring to such permit(s) and/or permission(s).

**RESPONSE: Subject to the General Objections, none other than Countryview's assumed name certificate for "Emerson Creek Pottery" and "Emerson Creek Tearoom", which is publicly available online via the Illinois Secretary of State website.**

13. All documents showing, concerning, evidencing, relating or referring to any differences, disputes or controversies between Countryview Parties and any third party concerning any text or mark containing the terms EMERSON CREEK.

**RESPONSE: Subject to the General Objections, none.**

14. All documents showing, concerning, evidencing, relating or referring to any complaints, differences, controversies, regulatory reports, inspections or complaints (including health and sanitary) or civil actions concerning Countryview Parties' offering of pottery goods or restaurant or event services.

**RESPONSE: Subject to the General Objections, none.**

15. All documents from any third party mentioning, concerning, evidencing, relating or referring to Opposer.

**RESPONSE: Subject to the General Objections, see ECE 054-055 (ECE 060-061 is duplicative).**

16. All documents from any third party mentioning, concerning, evidencing, relating or referring to any mark, text or product offered or advertised with any mark or text containing the terms EMERSON CREEK.

**RESPONSE: Subject to the General Objections, see generally ECE 001-251 and answers to Interrogatories #s 5 and 6.**

17. All documents and things that are identified, referred to in, and/or that support Countryview Parties' responses to Countryview Parties' Initial Disclosures Pursuant to Rule 26(A) that have not been produced pursuant to the foregoing request for documents.

**RESPONSE: Countryview Parties object to Request #17 as it is vague and overbroad. Without waiving said objections, see other responses to production requests and answers to interrogatories. In addition, Countryview Parties reserve the right to use or rely upon any disclosures or documents produced by ECP.**

18. All documents and things that are identified, referred to in, and/or that support Countryview Parties' responses to Plaintiff's First Set of Interrogatories that have not been produced pursuant to the foregoing request for documents.

**RESPONSE: Countryview Parties object to Request #18 as it is vague and overbroad. Without waiving said objections, see other responses to production requests and answers to interrogatories. In addition, Countryview Parties reserve the right to use or rely upon any disclosures or documents produced by ECP.**

Dated: June 9, 2019

Respectfully submitted

By: /Kenneth S. McLaughlin, Jr./  
One of the Attorneys for Countryview Pottery Co.  
and Emerson Creek Events, Inc.

Kenneth S. McLaughlin, Jr.  
Law Offices of McLaughlin & Assoc., P.C.  
495 N. Commons Dr., Suite 103  
Aurora, Illinois 60504  
(630) 230-8434  
(630) 230-8435 (fax)  
[kmclaughlin@ma-lawpc.com](mailto:kmclaughlin@ma-lawpc.com)  
ARDC No. 6229828 (Illinois)



**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that on June 7, 2019, he served a copy of the above-referenced Response to Opposer's First Set of Request to Applicants for Production of Documents upon Garfield Goodrum via email to: [garfield.goodrum@gdrmlaw.net](mailto:garfield.goodrum@gdrmlaw.net).

/Kenneth S. McLaughlin, Jr./  
Kenneth S. McLaughlin, Jr.  
Law Offices of McLaughlin & Assoc., P.C.  
495 N. Commons Dr., Suite 103  
Aurora, Illinois 60504  
(630) 230-8434  
(630) 230-8435 (fax)  
[kmclaughlin@ma-lawpc.com](mailto:kmclaughlin@ma-lawpc.com)  
ARDC No. 6229828 (Illinois)